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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

GEORGE CUSTER,

Plaintiff,

V.

C. R. BARD, INCORPORATED and BARD
PERIPHERAL VASCULAR, INCORPORATED,

Defendants.

Case No. 3:20-cv-00302-MMD-BNW

**STIPULATION TO STAY DISCOVERY
AND ALL PRETRIAL DEADLINES**

(SECOND REQUEST)

Plaintiff George Custer (“Plaintiff”) and Defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. (“Defendants” and collectively with Plaintiff, the “Parties”), pursuant to Fed. R. Civ. P. 26(c) and (d) and LR IA 6-2, respectfully request that this Court temporarily stay discovery and all pretrial deadlines until **April 19, 2021** while the Parties finalize settlement documents. In support thereof, the Parties state as follows:

1. This case was part of the Multi-District Litigation proceeding *In re: Bard IVC Filters Product Liability Litigation*, pending before Senior Judge David Campbell of the District of Arizona.

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1 2. Plaintiff alleges experiencing complications following the implantation of a Bard
 2 Inferior Vena Cava (“IVC”) filter, a prescription medical device. He has asserted three strict products
 3 liability counts (manufacturing defect, information defect (failure to warn) and design defect), six
 4 negligence counts (design, manufacture, failure to recall/retrofit, failure to warn, negligent
 5 misrepresentation and negligence per se), two breach of warranty counts (express and implied), two
 6 counts sounding in fraud (fraudulent misrepresentation and fraudulent concealment), an unfair and
 7 deceptive trade practices count, and a claim for punitive damages.

8 3. Defendants deny the allegations contained in the Complaint.

9 4. After four years, the completion of general issue discovery, and the conduct of three
 10 bellwether trials, Judge Campbell ordered that cases, which have not settled or are not close to settling,
 11 be transferred or remanded to the appropriate jurisdictions around the country for case-specific
 12 discovery and trial. As a part of that process, he established a “track” system, wherein certain cases
 13 were placed on tracks either to finalize settlement paperwork, continue settlement negotiations, or be
 14 remanded or transferred.

15 5. This case was transferred to this Court on March 30, 2020 because at the time it was
 16 not close to settling. But, since that date, the Parties have engaged in further settlement discussions
 17 and have reached a settlement in principle. The Parties believe that a stay is necessary to conserve
 18 their resources and attention so that they may finalize settlement documents in this case and those of
 19 two other plaintiffs represented by Plaintiff’s counsel with cases pending before this Court.

20 6. Accordingly, the Parties request that this Court issue an order staying discovery and
 21 pretrial deadlines until April 19, 2021.

22 7. A district court has broad discretion over pretrial discovery rulings. *Crawford-El v.*
 23 *Britton*, 523 U.S. 574, 598 (1998); *accord Republic of Ecuador v. Hinchee*, 741 F.3d 1185, 1188-89
 24 (11th Cir. 2013); *Thermal Design, Inc. v. Am. Soc'y of Heating, Refrigerating & Air-Conditioning*
 25 *Eng'rs, Inc.*, 755 F.3d 832, 837 (7th Cir. 2014); *see also Cook v. Kartridg Pak Co.*, 840 F.2d 602,
 26 604 (8th Cir. 1988) (“A district court must be free to use and control pretrial procedure in furtherance
 27 of the orderly administration of justice.”).

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1 8. Under Federal Rules of Civil Procedure 26(c) and 26(d), a court may limit the scope
 2 of discovery or control its sequence. *Britton*, 523 U.S. at 598. Although settlement negotiations do
 3 not automatically excuse a party from its discovery obligations, the parties can seek a stay prior to the
 4 cutoff date. *Sofo v. Pan-Am. Life Ins. Co.*, 13 F.3d 239, 242 (7th Cir. 1994); *see also Wichita Falls*
 5 *Office Assocs. v. Banc One Corp.*, 978 F.2d 915, 918 (5th Cir. 1993) (finding that a “trial judge’s
 6 decision to curtail discovery is granted great deference,” and noting that the discovery had been
 7 pushed back a number of times because of pending settlement negotiations).

8 9. Facilitating the efforts of parties to resolve their disputes weighs in favor of granting
 9 a stay. In *Coker v. Dowd*, 2:13-cv-0994-JCM-NJK, 2013 U.S. Dist. LEXIS 201845, at *2-3 (D. Nev.
 10 July 8, 2013), the parties requested a 60-day stay to facilitate ongoing settlement negotiations and
 11 permit them to mediate global settlement. The Court granted the stay, finding the parties would be
 12 prejudiced if required to move forward with discovery at that time and a stay would potentially
 13 prevent an unnecessary complication in the case. *Id.* at *3. Here, the Parties have reached a settlement
 14 in principle.

15 10. The Parties agree that the relief sought herein is necessary to handle the case in the
 16 most economical fashion yet allow sufficient time to schedule and complete discovery if necessary,
 17 consistent with the scheduling obligations of counsel. The relief sought in this Motion is not being
 18 requested for delay, but so that justice may be done.

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1 **WHEREFORE**, Plaintiff and Defendants respectfully request the Court's approval of this
2 stipulation to stay discovery and all pretrial deadlines until April 19, 2021 to allow the Parties to
3 finalize settlement documents.

4 **IT IS SO STIPULATED.**

5 Respectfully submitted on February 16, 2021.

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7 MCSWEENEY LANGEVIN, LLC

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19 *Counsel for Defendants*

20 *Counsel for Plaintiffs*

21 **ORDER**

22 **IT IS ORDERED** that the parties' stipulation is GRANTED.

23 **IT IS FURTHER ORDERED** that by April 19, 2021, the parties must file either
dismissal documents or a joint status report concerning the status of settlement.

24 **IT IS SO ORDERED**

25 **DATED:** 2:23 pm, February 19, 2021

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27 **BRENDA WEKSLER**
28 **UNITED STATES MAGISTRATE JUDGE**